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7 **UNITED STATES DISTRICT COURT**
8 **DISTRICT OF NEVADA**
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10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 ROBERT MYRON LATHAM,

14 Defendant.
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Case No. 2:11-cv-00780-LDG (GWF)
Case No. 2:06-cr-00379-LDG (GWF)

ORDER

16 The defendant, Robert Myron Latham, has filed an appeal (#203) of this Court's
17 denial (#202) of his petition to vacate, set aside, or correct sentence pursuant to 28 U.S.C.
18 §2255 (#193), and moves for a certificate of appealability (#204). The Court will deny the
19 motion and decline to issue a certificate of appealability as to each ground for relief raised
20 by Latham.

21 As reasons for the denial, the Court states that Latham did not make a substantial
22 showing that he was denied a constitutional right in any of his claims for relief. Latham's
23 request for relief relating to the alleged alibi witness failed as (a) Latham not only failed to
24 timely disclose his asserted alibi defense to the government and the Court, but even to his
25 own counsel, (b) his own testimony and the report of the asserted alibi witness establish
26 that her testimony would have served only to confirm Latham's perjury regarding the alibi,

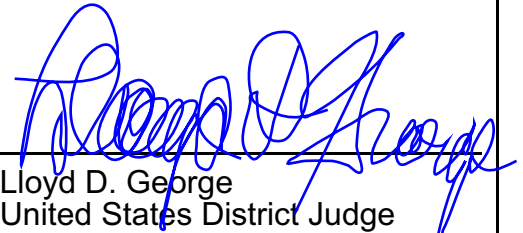
1 and (c) ultimately the asserted alibi was irrelevant to the charged conduct of which Latham
2 was convicted. Latham's requests for relief relating to the Government's forensic computer
3 expert witness failed as Latham's arguments rested on mis-statements of the expert's
4 testimony and speculation. Latham's request for relief arising from his November 2006
5 indictment failed for the same reason as it also rested upon unfounded speculation.
6 Latham's request for relief for failure to investigate failed as it not only rested on unfounded
7 speculation, but rested upon allegations and arguments contradicted by the record.

8 Accordingly,

9 THE COURT **ORDERS** that Defendant's Motion for Certificate of Appealability
10 (#204) is DENIED;

11 THE COURT **DECLINES** to issue a certificate of appealability as to every ground for
12 relief asserted by the Defendant in his 28 U.S.C. §2255 petition.

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14 DATED this 29 day of March, 2012.

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17 Lloyd D. George
18 United States District Judge
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